

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN WILLIAMS,

Plaintiff,

v.

UNKNOWN, et al.,

Defendants.

No. 2: 20-cv-1950 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. For the reasons stated herein, plaintiff is granted thirty days to file a fourth amended complaint.

On March 25, 2021, the undersigned issued an order and findings and recommendations addressing plaintiff's motion to file a second amended complaint. (ECF No. 38.) The undersigned recommended that claim two, alleging denial of access to the courts, and claim three be dismissed as improperly joined. (Id.) The undersigned also recommended that plaintiff's request for release from custody, contained in claim one, be dismissed as improperly raised in a civil rights action. (Id.) The undersigned dismissed claim one and the part of claim two alleging mishandling of plaintiff's petition for medical parole with leave to file a third amended complaint within thirty days. (Id.)

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1 On April 8, 2021 plaintiff filed a third amended complaint. (ECF No. 39.)

2 On September 28, 2021, the Honorable Kimberly J. Mueller adopted the March 25, 2021
3 findings and recommendations, except for the recommendation that plaintiff's request for release
4 from custody be dismissed as improperly raised in a civil rights action. (ECF No. 61.) Judge
5 Mueller dismissed with leave to amend plaintiff's request for release from custody, contained in
6 claim one, based on allegedly unsafe conditions created by the COVID-19 pandemic. (Id.)

7 Based on Judge Mueller's order granting plaintiff leave to amend as to his request for
8 release from custody, plaintiff is granted thirty days from the date of this order to file a fourth
9 amended complaint. If plaintiff does not file a fourth amended complaint within that time, the
10 undersigned will issue further orders addressing the third amended complaint filed April 8, 2021.

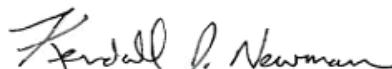
11 If plaintiff files a fourth amended complaint, plaintiff is informed that the court cannot
12 refer to a prior pleading in order to make plaintiff's amended complaint complete. Local Rule
13 220 requires that an amended complaint be complete in itself without reference to any prior
14 pleading. This requirement exists because, as a general rule, an amended complaint supersedes
15 the original complaint. See Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir.
16 2015) (“an ‘amended complaint supersedes the original, the latter being treated thereafter as non-
17 existent.’” (internal citation omitted)). Therefore, a fourth amended complaint must contain each
18 claim and allege the involvement of each named defendant.

19 Plaintiff shall not include any of the claims dismissed by Judge Mueller in a fourth
20 amended complaint.

21 Accordingly, IT IS HEREBY ORDERED that plaintiff is granted thirty days from the date
22 of this order to file a fourth amended complaint; if plaintiff does not file a fourth amended
23 complaint within that time, the undersigned will issue further orders addressing the third amended
24 complaint filed April 8, 2021.

25 Dated: October 1, 2021

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE